

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 04.03.2021

CORAM

THE HON'BLE MR. JUSTICE **G.K.ILANTHIRAIYAN**

CRP.PD.Nos.3010 & 3011 of 2017  
and CMP.Nos.14139 & 14140 of 2017

CRP.PD.No.3010 of 2017

1.N.Govindarajan  
2.Srividya Govindarajan

..Petitioners

Vs.

S.Logeswari  
Represented by Power of Attorney  
S.L.Arokiyasamy,  
Old Door No.221, New Door No.76,  
Agnappa Naickan Street,  
Chennai 600 001

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against the order and decree dated 27.07.2017 in RCA.SR.No.40990 of 2017 passed by the VII Judge, Small Causes Court cum Rent Control Appellate Authority, Chennai and confirming the order dated 13.07.2017 in MP.No.342 of 2015 in RCOP.No.595 of 2015 passed by the XVI Judge, Small Causes Court cum Rent Controller, Chennai.

For Petitioners : Mr.A.Esakkiappan

For Respondent : Mr.S.B.Murugesan

CRP.PD.No.3011 of 2017

1.N.Govindarajan  
2.Srividya Govindarajan

..Petitioners

Vs.

S.Logeswari  
Represented by Power of Attorney  
S.L.Arokiyasamy,  
Old Door No.221, New Door No.76,  
Agnappa Naickan Street,  
Chennai 600 001

..Respondent

PRAYER:

The Civil Revision Petition is filed under Article 227 of the Constitution of India against strike off the Eviction Petition in RCOP.No.595 of 2015 on the file of the XVI Judge, Small Causes Court cum Rent Controller, Chennai.

For Petitioners : Mr.A.Esakkiappan

For Respondent : Mr.S.B.Murugesan

**COMMON ORDER**

The civil revision petition in CRP.No.3010 of 2017 is filed against the order and decree dated 27.07.2017 passed in RCA.SR.No.40990 of 2017 on the file of the VII Judge, Small Causes Court cum Rent Control Appellate Authority, Chennai thereby confirming the order dated 13.07.2017 passed in MP.No.342 of 2015 in

RCOP.No.595 of 2015 passed by the XVI Judge, Small Causes Court cum Rent Controller, Chennai thereby dismissing the petition filed by the petitioners as the RCOP is not maintainable.

2. The civil revision petition in CRP.No.3011 of 2017 is filed against strike off the Eviction Petition in RCOP.No.595 of 2015 on the file of the XVI Judge, Small Causes Court cum Rent Controller, Chennai.

3. In both the civil revision petitions, the petitioners are the respondents in the eviction petition filed by the respondent on the ground of wilful default and denial of title. While pending the RCOP, the petitioners filed petition to dismiss the RCOP as not maintainable and the same was dismissed. Aggrieved by the same, the petitioners filed appeal before the learned Rent Control Appellate Authority. The learned Rent Control Appellate Authority dismissed the same in SR stage itself as rejected as not maintainable.

4. The learned counsel for the petitioners would submit that the respondent is a stranger to the petition premises and she created fake documents and filed vexatious petition. The petition

premises was purchased by the first petitioner's grandfather from one late Subramaniya Mudaliyar's legal heirs by the registered sale deed dated 05.12.1975 registered vide document No.1493 of 1975 in the Office of the Sub Registrar, T.Nagar, Chennai. Patta was changed in his name and they are in possession and enjoyment of the petition premises till today. Therefore, there is no relationship of landlord and tenant between the petitioners and the respondent herein. He further submitted that even before filing RCOP, the respondent herein filed suit for permanent injunction in respect of petition premises in OS.No.4354 of 2005 on the file of the XVIII City Civil Court, Chennai. Subsequently, it was transferred to this Court and renumbered as CS.No.543 of 2010. The respondent also filed injunction petition and the same was dismissed by this Court in OA.Nos.439 and 440 of 2008 by order dated 27.07.2009 and observed that the documents which were relied upon by the respondent are not genuine and fabricated one. Aggrieved by the same, the respondent filed appeal in OSA.No.45 and 46 of 2010 and the Hon'ble Division Bench of this Court dismissed the same by order dated 26.02.2010.

4.1 He further submitted that the main suit itself was dismissed by this Court by the judgment and decree dated 08.11.2016. Though it was dismissed for default, thereafter the

respondent failed to restore the same even till today. While being so, again the respondent filed suit before this Court in CS.No.399 of 2008 for declaration in respect of the very same property. Subsequently, the said suit was transferred to the file of the IV Additional City Civil Court, Chennai and renumbered as OS.No.3873 of 2016. While pending the suit, the petitioners filed petition for rejection of plaint and the same was dismissed. Aggrieved by the same, the petitioners filed civil revision petition before this Court in CRP.PD.No.1756 of 2017 and this Court by order dated 28.04.2018 allowed the civil revision petition. In pursuant to the order passed by this Court, the plaint in OS.No.3873 of 2016 was rejected by order dated 11.09.2018. In the meantime, the respondent and henchmen trespassed into the suit property and attempted to evict the petitioners from the petition premises. Therefore, the first petitioner lodged complaint and the same was registered in Cr.No.1517 of 2015 for the offences under Sections 294(b), 448, 427, 324 and 506(ii) of IPC as against the henchmen engaged by the respondent herein. After completion of enquiry, the Inspector of Police, R1, Mambalam Police Station, Chennai also filed final report and the same has been taken cognizance in CC.No.3839 of 2015 and it is pending for trial on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai.

4.2 He further submitted that suppressing all these facts, the respondent again filed eviction petition on the ground of wilful default and denial of title for the very same property. While pending RCOP, the petitioners filed petition to reject the RCOP as not maintainable for the reason that there is no landlord tenant relationship between them and the same was dismissed and aggrieved by the same, the petitioners filed RCA, which was also rejected in SR stage itself. As against the rejection order, CRP.No.3010 of 2017 is filed. Insofar as the CRP.No.3011 of 2017 is concerned, filed to dismiss the RCOP as maintainable under Section 227 of the Constitution of India. In support of his contention, he relied upon the following judgments:

- (i) Tamil Nadu Handloom Weaver's Co-operative Society, rep by its Managing Director Vs. S.R.Ejaz, rep by his Power Agent, Muralidhar T.Balani reported in 2009 (5) CTC 710
- (ii) K.Chandran and others VS. V.Geethalakshmi reported in 2012 (3) MWN (Civil) 832

4.3 The learned counsel for the petitioners also submitted that again the respondent filed another suit for declaration in respect of the very same property in OS.No.720 of 2021 and it is pending on the file of the II Assistant City Civil Court, Chennai.

5. Per contra, the learned counsel for the respondent would submit that all the suits filed by the respondent were rejected *in limine* and no opportunity was given for the respondent to mark the documents before the trial court. In any suit, no trial was conducted and both the suits were dismissed *in limine*. Further the eviction petition itself was filed on the ground of denial of title. The learned Rent Controller rightly dismissed the petition that the issue has to be gone into trial by let in evidence during the trial and it cannot be dismissed on the nip of the RCOP. Further he submitted that the first petitioner was inducted as tenant in the second floor of the petition premises for the monthly rent of Rs.25,000/-. Thereafter they failed to pay any rent and whenever the respondent demanded to pay the rent, the petitioners used to threaten her with dire consequences. Therefore, the respondent also lodged complaint before the jurisdictional police station. He further submitted that though the petitioners claimed petition premises as if the same was purchased by the first petitioner's grandfather in the year 1975 by the registered sale deed dated 05.12.1975 vide document No.1493 of 1975, till today, they did not produce the same before any of the court. In fact, the respondent issued notice on 20.01.2015 to produce original sale deed. Even till today, the petitioners did not produce the same. In fact the second petitioner herein also filed suit in CS.No.719 of 2014 before

this Court for injunction and subsequently it was dismissed as withdrawn on 18.02.2015.

5.1 He further submitted that the issues raised by the petitioners are mixed question of law and facts which cannot be decided in the petition to dismiss RCOP without let in evidence. All the issues raised by the petitioners can be considered only during the full-fledged trial. He further submitted that the eviction petition has to be taken up by the learned Rent Controller for deciding the preliminary issue i.e. whether denial of title (jural relationship of landlord tenant between the revision petitioners and the respondent) and then to proceed with the decision on the other issues in RCOP on merits. Therefore, during the trial, before deciding other issues, preliminary issue regarding jural relationship issue has to be decided first. Therefore, without deciding the said issue, RCOP cannot be dismissed *in limine*. In support of his contention, he relied upon the judgment in the case of **P.Rukmani Vs. R.Narayani and 6 others** reported in **1996-1-LW 689**, wherein it is held as follows:

**Head Note:** *Tamil Nadu Buildings (Lease and Rent Control) Act (1960), Section 10, CPC, Section 9, and Evidence Act, S.77/Voters List, Entries, admissibility – Suit for eviction in Civil Court against a tenant based on the ground of wilful default in payment of rent and*

*owner's requirement – Specific provisions therefor in the Act and implied bar of suit, inference as to – Suit for recovery of possession, whether maintainable.*

*CPC, Section 9 – Suit for eviction in civil court against a tenant, etc – See T.N.Buildings etc – Act, Section 10 etc.*

*Evidence Act, Section 77 -Voters list, a public document – Admissibility in evidence – See T.N.Buildings etc. Act, S.10, CPC, Section 9 etc.*

13. The abovesaid decision clearly show that although the jurisdiction of the Civil Court is not expressly barred, the provisions of the statute explicitly show that, subject to the extraordinary powers of the High Court and the Supreme Court, such jurisdiction is impliedly barred, except to the limited extent specially provided by the statute. Any suit instituted by the landlord for eviction of a tenant from a building falling within the ambit of the Act, otherwise than as stipulated by the Section is, therefore incompetent for lack of jurisdiction of the court and any decree of the court in such a suit is null and void and of no effect. In view of the law laid down by the Apex Court and the subsequent decision of this Court, I am in entire agreement with the arguments of the learned Counsel for the respondents and, consequently, confirm the judgment and decree of the lower appellate court, holding that the suit filed by the plaintiff is not maintainable.

5.2 He also relied upon the judgment in the case of **Rajendran Vs. Akkammal** reported in **2015 (4) CTC 696**, wherein

it is held as follows:

**Head Note:** Constitution of India, Article 227 – Tamil Nadu Buildings (Lease and Rent Control) Act, 1960 (TN.Act 18 of 1960) – Code of Civil Procedure , 1908 (5 of 1908), Order 39, Rules 6 to 10 – Rent Control proceedings – Application filed by Tenant / Revision Petitioner to reopen Respondent's side evidence and recall PW1 for cross examination – Dismissal of – Revision against – Interlocutory Petition – Orders passed in Interlocutory Petitions are not appealable unless rights and liabilities of parties are affected – Rejection of such Application does not lend finality in Original Petition – Such orders are only procedural – Appeal not maintainable – Judgment in V.Govindarajulu v T.Govindarajulu, 1989 (1) MLJ 482, followed – Petitioner though filed Revision Petitions, same liable to be dismissed.

5.An Order disposing any Interlocutory Application is not appealable and such orders are only procedural one and it will not affect the rights and liabilities of the parties. Hence, no Appeal is maintainable. However, the petitioner has preferred these Revisions here against the same, which are certainly liable to be dismissed.

6 Heard, Mr.A.Esakkiappan, the learned counsel for the petitioners and Mr.S.B.Murugesan, the learned counsel for the respondent.

7. The respondent filed petition for eviction on the ground of wilful default and denial of title. According to the respondent, the petition premises was rented out to the first petitioner herein for the monthly rent of Rs.25,000/-. Thereafter, the petitioners failed to pay rent and also threatened the respondent with dire consequences. Except this averment, there is no iota of averment stating that when the petitioners were inducted as tenant and when they defaulted in payment of monthly rent. All along, they stated that they derived title in respect of petition premises and as such they filed petition for eviction on the ground of wilful default and also denial of ownership.

8. On perusal of records, the respondent filed suit for the very same petition premises in OS.No.4354 of 2005 on the file of the XVIII City Civil Court, Chennai for injunction. Subsequently, the suit was transferred to this Court and renumbered as CS.No.543 of 2010. In the said suit, the respondent filed petitions for injunction in OA.Nos.439 & 440 of 2008, which were dismissed by this Court by order dated 27.07.2009. In fact, this Court observed as follows:

*4. These documents genuineness were strongly refuted. Ms.Chitra Sampath, learned counsel appearing for*

*the second defendant has filed a typed set of papers in which she had produced letters received from the Tahsildar, Mambalam Guindy Taluk, dated 15.11.2006 stating that the nativity certificate was not issued by their office. She had also filed a letter from the Assistant Commissioner, Thousand Lights Zone, dated 18.12.2006 stating that the Family ration card referred to by the plaintiffs were not issued by their office. Further, a letter was also produced from the Public Information Officer, Corporation of Chennai, dated 22.03.2007 stating that the Election Commissioner has not issued the EPIC Card in favour of the second plaintiff. These answers were received from the respective officers on making queries under the RTI Act.*

*5. Therefore, the argument that they were in possession cannot be accepted for the purpose of maintaining this application. Since the plaintiffs failed to prove that they are in possession, there is no necessity to grant any interim injunction as prayed for in OA.No.439 of 2008. The respondents have also established that they are in law possession of the property and the plaintiffs' attempt to establish possession was not been proved. The plaintiffs in the suit before the City Civil Court and before this Court were taking shifting opposite stand with reference to the occupation of the respondents in the suit property.*

9. Aggrieved by the same, the respondent filed OSA.Nos.45 and 46 of 2010 and the same were also dismissed by the

Hon'ble Division Bench of this Court by order dated 26.02.2010, wherein it is observed as follows:

*7. In the instant case, the plaintiffs came forward to state that the alleged sale deed executed by them in the year 1975 was null and void and would not bind on them but they are not able to putforth any explanation as to how the remaining part of the property went to the hands of the defendants. The daughter of the first Plaintiff/first appellant herein who is the second Plaintiff/ second appellant herein, filed a suit before the City Civil Court in OS.No.4354 of 2005 against the second defendant / second respondent herein and the same is also pending. Equally, the second defendant also filed a suit against the plaintiffs in OS.No.335 of 2008 which is also pending. Both the suits are for permanent injunction against each other and while both the suits are pending, the instant suit has been filed. The learned single Judge is perfectly correct in coming to a conclusion that it is not a fit case where an injunction, not to interfere with the possession, could be granted and dismissed the same. The judgment of the learned single Judge does not require any disturbance in the hands of the Court.*

10. In the meanwhile, the respondent also filed suit for declaration for the very same petition premises in CS.No.399 of 2008 on the file of this Court. Subsequently, the same was transferred to the file of the IV Additional City Civil Court, Chennai and renumbered

as OS.No.3873 of 2016. In fact, the first suit filed by the respondent in CS.No.543 of 2010 was dismissed by the judgment and decree dated 08.11.2016 by this Court. In the suit filed by the respondent for declaration in OS.No.3873 of 2016, the petitioners filed petition to reject the plaint under Order 7 Rule 11 of CPC. Though initially the same was dismissed and aggrieved by the same, the petitioners filed civil revision petition before this Court in CRP.PD.No.1756 of 2017, and this Court passed detailed order and rejected the plaint by order dated 28.04.2018, wherein this Court observed as follows:

*36. The further statement made in para 8 goes to show that there was a partition suit in OS.No.1643 of 1973, which is filed as document No.4 along with plaint clearly shows that the averments made in paras 11 to 13 deals with regard to the probate proceedings, which had taken place in the year 1986, and testamentary original suit between the defendants in the suit till 2003, which were not pleaded in the written statement filed by the second defendant in the previous suit shows that the plaintiffs had knowledge of the title of the defendants.*

*37. Further, the Trial Court while answering these issues discussed that the legal heirs of other male descendants of Subramaniya Mudaliar and Kaveri Ammal of having executed a power of attorney on the same day when the plaintiffs executed another power of attorney for the same property and exchange of cases between the*

*parties. The Trial Court having adverted to the above facts conveniently ignored the suppression as to legal heirs not impleaded as parties. If it is a suit for injunction simpliciter, the other legal heirs are not necessary parties. But in a suit for declaration, a duty is cast upon the plaintiffs to bring out all the facts and refrain from concealing / suppressing material facts within their knowledge. The concealment of material facts is nothing short of polluting the pure stream of justice. When a valid document in the form of a decree is very much available as document No.4, filed along with the plaint, the suit is a clear abuse of process of law, for suppression of facts and misleading statements. Further, the finding of the court with regard to the other documents filed along with the plaint to show possession that they are bogus documents, will also amount to abuse of process of law. Thirdly, the binding that the plaintiffs are not in possession of the property would clearly show that there is no subsisting cause of action for filing the suit for injunction for the second time by forging the documents which were found wanting in the first suit, will certainly amount to abuse of process of law.*

*38. As held by this Court in RM.Subbiah's case (cited supra) this court has power to stop the vexatious litigations. The finding of the Trial Court that it can be decided as a preliminary issue, is not correct and the parties shall not be forced to undergo the agony of litigation on vexatious suit filed by them. The plaintiffs have pleaded that there was a probate with respect to the*

*property by this Court. The probate is a document in declaring title to the parties concerned. Yet another probate proceedings ended in testamentary original suit, which was also pleaded by the plaintiffs, goes to show that the declaration will bind them also, until it is set aside. Even in the plaint about the steps taken by them to set aside the order. As long as the order passed by this Court, with regard to the same property and the further execution pursuant to the same remains in force, the plaintiffs cannot maintain the suit on the pleading made by them in the plaint. Therefore also, the suit is liable to be rejected, as abuse of process of law, vexatious and hopelessly barred by limitation.*

*39. In the result, the order dated 24.02.2017 passed by the Trial Court in IA.No.12008 of 2016 in OS.No.3873 of 2016 is set aside and the Civil Revision Petition is allowed. No costs. Consequently, connected miscellaneous petition is closed.*

11. Accordingly, the trial court rejected the plaint by order dated 11.09.2018. In fact, the respondent also filed review petition as against the same in RP.No.270 of 2018 and the same was also dismissed by order dated 29.04.2019. In the meanwhile, the respondent engaged henchmen including an advocate to trespass into the petition premises and attempted to evict the petitioners. Therefore, the first petitioner lodged complaint and the same was

registered in Cr.No.1517 of 2015 for the offences under Sections 294(b), 448, 427, 324 and 506(ii) of IPC on the file of the Inspector of Police, R1, Mambalam Police Station, Chennai. The Inspector of Police after completion of investigation filed final report and the same has been taken cognizance in CC.No.3839 of 2015 and it is pending for trial on the file of the XVII Metropolitan Magistrate, Saidapet, Chennai. After having been failed before all the courts, the respondent again filed eviction petition on the ground of wilful default and denial of title for the very same petition premises. It is nothing but clear abuse of process of law.

12. The learned counsel for the petitioners in support of his contention relied upon the judgment in the case of ***Tamil Nadu Handloom Weaver's Co-operative Society, rep by its Managing Director Vs. S.R.Ejaz, rep by his Power Agent, Muralidhar T.Balani*** reported in **2009 (5) CTC 710**, wherein it is held as follows:

**Headnote:** Constitution of India, Article 227 – Revision against order directing to maintain status quo in spite of a specific direction by Supreme Court to put petitioner in possession of suit property forthwith – Interlocutory Application not disposed of and adjourned periodically – Revision before High Court – Present suit is clearly vexatious and attempt is nothing but re-litigation –

*Respondent has scant respect towards Court and rule of law – His attempt is to continue in possession at any cost – Trial Court ought to have rejected Plaintiff at earliest opportunity – Attempt of respondent was only to flout direction issued by Supreme Court – Court cannot be a tool in hands of such vexatious litigants – It will be a mockery of justice to permit respondent to enjoy luxury of re-litigation – Court has solemn duty to see that nothing would come in way of frustrating recipient of justice from executing decree – Court is also expected to filter out and throw all unwanted and vexatious litigations which would be an obstruction to decree holders in their journey to get justice – Attempt of respondent is to delay execution of decree which has attained finality – Suit held to be a vexatious one and struck off from file – Civil Revision Petition allowed.*

56. The only cause for action in filing the suit, even according to the respondent was the quantum of rack rent being above the pecuniary jurisdiction of the Small Causes Court. When there was an issue raised and decided against the respondent in the earlier suit in E.S.No.20/2005, the respondent was precluded from filing a subsequent suit with identical contentions. There was a clear finding against the respondent in the earlier round of litigation that the rack rent was within the limits fixed by [Section 41](#) of the Presidency Small Causes Court Act. The said finding was unsuccessfully challenged up to the Supreme Court. The issue has now become final. By way of the present suit, the said issue is sought to be raised once again. It is

not necessary to read the counter filed by the petitioner herein in I.A.No.5320/2009 to ascertain as to whether the subsequent suit was barred by the principles of res judicata or constructive res judicata. The documents filed along with the plaint in the light of the pleadings would make the position clear that the suit in O.S.No.2889/2009 was clearly barred by the principles of res judicata. When the subsequent suit is bound to be dismissed on the ground of both res judicata as well as constructive res judicata, there is no question of allowing the suit to continue, wasting the time of the trial Court. Similarly, when the subsequent suit was found to be a vexatious suit initiated to circumvent the binding decree passed earlier as well as to defeat the directions issued by the Supreme Court, there is no point in directing the petitioner to approach the trial Court with an application to reject the plaint.

57.The present suit is clearly vexatious and the attempt is nothing but re-litigation. The respondent has scant respect towards the Court and the rule of law. His attempt is to continue in possession at any cost. The learned Trial Judge should have rejected the plaint at the earliest opportunity and at least after filing counter by the revision petitioner, opposing the plea raised in the suit as well as in the interlocutory application.

58.The facts projected in the case clearly show that the attempt of the respondent was only to flout the direction issued by the Supreme Court and to retain his

possession under some pretext or the other. Court cannot be a tool in the hands of such vexatious litigants. It will be a mockery of justice to permit the respondent to enjoy the luxury of re-litigation.

59.It is the solemn duty of this Court to see that nothing would come in the way of frustrating the recipient of justice from executing the decree. Similarly, the Court is expected to filter out and throw all unwanted and vexatious litigations which would be an obstruction to the decree holders in their journey to get justice.

Conclusion :-

60.The issue involved in this revision is a classic example as to how a vexatious litigant would be able to delay the legal process and cause threat to the very justice delivery system by way of unwanted re-litigation. The respondent was attempting to make mockery of the very judicial system. In case litigants like the respondent is permitted to achieve their objective in delaying the execution of a decree passed by the Court, which has attained finality, the common man will lose faith in Courts as well as in the justice delivery system.

13. He also relied upon the judgment in the case of **K.Chandran and others VS. V.Geethalakshmi** reported in **2012 (3) MWN (Civil) 832**, wherein it is held as follows:

*25. Further I find that the main allegation in the plaint is that the applicants have obtained sale deeds*

*dated 06.05.1985 by playing fraud on the legal heirs of Balakrishna Naicker, which allegation is similar to that of the allegation made in C.S.No.123 of 2005 filed by the legal heirs of Balakrishna Naicker as against the applicants. As per section 56 of the Limitation Act, to declare the forgery of an instrument issued or registered, the period of limitation is three years. But, this suit has been filed much after from the date of registration of the sale deeds in favour of applicants 1 and 2 and one Varadhan. Hence, on that ground also, the suit is hit by limitation.*

*26. Next question that falls for consideration is, whether the subsequent purchaser of the suit property is entitled to file a suit for title in respect of the property purchased by him when already a suit for title filed by the predecessors-in-title is pending. It is the case of the applicants that they have purchased the property as early as in the year 1985 from the legal heirs of Balakrishna Naicker. After the demise of the wife of Balakrishna Naicker in the year 2002, two suits were filed by the legal heirs of Balakrishna Naicker, one in C.S.Nos.433 of 2004 and another in 123 of 2005. During pendency of the said suits, one of the legal heirs of Balakrishna Naicker had sold the suit property to the 11th defendant, who, in turn, sold the same to the respondent. The prayer in C.S.No.123 of 2005 and the present suit is one and the same. The prayer in C.S.123 of 2005 is extracted hereunder.*

*"26. The plaintiff therefore prays that this Honble*

*Court may be pleased to pass a judgment and decree in favour of the plaintiff:*

*(a) Declaring the following forged 3 sale deeds executed by the defendants 1 to 6 are null and void;*

*(1) The sale deed executed by Mrs.Dhanalakshmi, Nirmala and Purushotaman in favour of Mr.K.Chandran in Document No.1305/1985 dated 06.05.1985 at SRO., Saidapet, Chennai-15.*

*(2) The Sale Deed executed by Mrs.Dhanalakshmi, Nirmala and Purushothaman in favour of Mrs.Meena in Document No.1303/1985 dated 06.05.1985 at SRO., Saidapet, Chennai-15.*

*(3) The Sale Deed executed by Mrs.Dhanalakshmi, Nirmala and Purushothaman in favour of Mr.K.Varadhan in Document No.1304/1985 dated 06.05.1985 at SRO., Saidapet, Chennai-15.*

*(b) Directing the defendants 1 to 7 to hand over the vacant possession of the suit B Schedule property to the plaintiffs.*

*(c) Granting Permanent injunction restraining the defendants 1 to 7, their men and agents from in any manner interfering with the peaceful possession and enjoyment of the plaintiffs in the Suit A and B Schedule property".*

*27. The prayer in respect of the sale deeds dated 06.05.1985 made in C.S.123 of 2005 and the present suit is one and the same. In C.S.No.123 of 2005, the prayer was to declare the sale deeds dated 06.05.1985*

*executed by the legal heirs of Balakrishna Naicker as null and void. The prayer in the present suit filed by the subsequent purchaser is to set aside the sale deeds dated 06.05.1985 executed by the legal heirs of Balakrishna Naicker in favour of applicants 1 and 2 and Varadhan. In both the suits, the allegations are that applicants 1 and 2 and one Varadhan, by playing fraud, obtained three sale deeds dated 06.05.1985. When already a suit filed by the predecessor-in-title is pending for title, filing of another suit for the same relief by the subsequent purchaser in respect of the property purchased by her from the predecessor-in-interest is not legally sustainable. In this regard, a reference could be placed in the judgment relied upon by the learned senior counsel for the applicants in the case of Hardev Singh .vs. Gurmail Singh (dead) by LR.s. reported in (2007) 2 SCC 404, wherein the Honble Apex Court has held as follows:*

*"18. The learned trial Judge and the first appellate court had decreed the suit of Udham Kaur only on the basis that she acquired the suit property during the pendency of the earlier litigation. Section 52 of the Act merely prohibits a transfer. It does not state that the same would result in an illegality. Only the purchaser during the pendency of a suit would be bound by the result of the litigation. The transaction, therefore, was not rendered void and/or of no effect".*

*28. From the dictum laid down in the above case, it*

*is clear that section 52 of the Act prohibits the pendente lite transfer. The subsequent purchaser has to wait for the result of litigation initiated by the predecessor-in-title and he has no right to file a separate suit for the same relief. In this regard, an useful reference also could be placed in another judgment relied on by the applicants in the case of T.G.Ashok Kumar .vs. Govindammal and another reported in 2011-1-L.W.394 and the relevant paragraph is extracted hereunder:*

*"10. The principle underlying Section 52 is clear. If during the pendency of any suit in a court of competent jurisdiction which is not collusive, in which any right of an immovable property is directly and specifically in question, such property cannot be transferred by any party to the suit so as to affect the rights of any other party to the suit under any decree that may be made in such suit. If ultimately the title of the pendente lite transferor is upheld in regard to the transferred property, the transferees title will not be affected. On the other hand, if the title of the pendente lite transferor is recognized or accepted only in regard to a part of the transferred property, then the transferees title will be saved only in regard to that extent and the transfer in regard to the remaining portion of the transferred property to which the transferor is found not entitled, will be invalid and the transferee will not get any right, title or interest in that portion. If the property transferred pendente lite, is allotted in entirety to some other party*

*or parties or if the transferor is held to have no right or title in that property, the transferee will not have any title to the property. Where a co-owner alienates a property or a portion of a property representing to be the absolute owner, equities can no doubt be adjusted while making the division during the final decree proceedings, if feasible and practical (that is without causing loss or hardship or inconvenience to other parties) by allotting the property or portion of the property transferred pendente lite, to the share of the transferor, so that the bonafide transferees right and title are saved fully or partially".*

29. A reading of the said judgment would show that if the property is transferred pendent lite and if the transferor is held to have no right or title in that property, the transferee will not have any title over the property. In the instant case, it is the claim of the applicants that by virtue of the sale deeds dated 06.09.1985, they have become absolute owners of the property and the legal heirs of Balakrishna Naicker have no right over the same. Only if the legal heirs of Balakrishna Naicker have any right over the property, the subsequent purchaser also will have a right over the property. However, the question that whether the legal heirs of Balakrishna Naicker are having any right over the suit property or not is a subject matter of the suit initiated by them. Hence, the respondent has to wait for the result of the suit filed by the legal heirs of

*Balakrishna Naicker as against the applicants and she cannot file a separate suit. If the right of the legal heirs of Balakrishna Naicker over the suit property is held valid in that suit, automatically plaintiff will acquire the right over the said property as a subsequent purchaser. Therefore, the purchaser of the immovable property during the pendency of a suit has no right to file a separate suit. Therefore, on this ground also, the plaint is liable to be rejected.*

This Court held that the revision is a classic example as to how a vexatious litigant would be able to delay the legal process and cause threat to the very justice delivery system by way of unwanted re-litigation

14. The above said judgments are squarely applicable to the case on hand. As stated supra, the respondent repeatedly filed vexatious suits and petitions against the petitioners. Further the respondent was attempting to make mockery of the very judicial system. In case litigants like the respondent is permitted to achieve their objective in delaying the execution of a decree passed by the Court, which has attained finality, the common man will lose faith in Courts as well as in the justice delivery system. Therefore, the eviction petition filed by the respondent is nothing but clear abuse of process of law and also amounts to forum shopping. Having been failed before

the civil courts and after too the respondent filed eviction petition before the Rent Controller.

14. In view of the above discussion, the civil revision petition in CRP.P.D.No.3011 of 2017 is allowed, and the RCOP.No.595 of 2015 on the file of the XVI Judge, Small Causes Court cum Rent Controller, Chennai is dismissed as abuse of process of law.

15. In view of the above order passed in CRP.P.D.No.3011 of 2017, the other civil revision petition in CRP.PD.No.3010 of 2017 is closed. Consequently, connected miscellaneous petitions are closed. No order as to costs.

04.03.2021

Speaking/Non-speaking order  
Index : Yes/No  
Internet : Yes/No  
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**G.K.ILANTHIRAIYAN,J.**

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To

- 1.The VII Judge,  
Small Causes Court cum Rent Control Appellate Authority,  
Chennai
- 2.The XVI Judge,  
Small Causes Court cum Rent Controller,  
Chennai.



CRP.PD.Nos.3010 & 3011 of 2017

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